



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEPARTMENT OF
ENVIRONMENTAL QUALITY

DEC 20 2011

OFFICE OF THE SECRETARY

DEC 14 2011

Alex Appeaning, Ph.D.
Deputy Secretary
Louisiana Department of Environmental Quality
Post Office Box 4303
Baton Rouge, Louisiana 70821-4303

Dear Dr. Appeaning:

Enclosed is the Final State Fiscal Year (SFY) 2011 Clean Water State Revolving Fund (CWSRF) American Recovery and Reinvestment Act (ARRA) Mid-year Program Evaluation Report (PER) for your review. The report is based on our on-site discussions and file reviews at the State office on August 17th-19th, 2011, and the Environmental Protection Agency's (EPA) completion of our standardized national checklists of Program Evaluation questions. We appreciate your assistance, as well as that of your staff in this review process.

Our review focused on the Louisiana Department of Environmental Quality (LDEQ) processes for ensuring compliance with all ARRA requirements.

We appreciate the efforts of the Louisiana Department of Environmental Quality in protecting the waters in the State of Louisiana. If you have any questions regarding this report, please feel free to contact me at (214) 665-3187, or have your staff contact Michael Vaughan at (214) 665-7313.

Sincerely,

William K. Honker
Acting Director
Water Quality Protection Division

Enclosure

cc (w/encl.): Ms. Karyn Andrews (LDEQ)
Mr. Jonathan McFarland (LDEQ)

**CLEAN WATER STATE REVOLVING FUND
MID-YEAR ARRA PROGRAM EVALUATION REPORT**

STATE OF LOUISIANA

FISCAL YEAR 2011

(STATE FISCAL YEAR 7/01/2010 – 6/30/2011)

Prepared by EPA Region 6

Assistance Programs Branch

I. Introduction

President Obama signed the American Recovery and Reinvestment Act of 2009 (ARRA) on February 17, 2009 to preserve and create jobs and promote economic recovery. ARRA provided \$6 billion to the State Revolving Fund (SRF) Programs to provide long-term environmental and economic benefits through the investment in water and wastewater infrastructure. Nationwide, the CWSRF received \$4 billion from ARRA, of which \$43,081,400 was awarded to the Louisiana Department of Environmental Quality (LDEQ).

EPA Headquarters requires EPA Regions to conduct on-site reviews of the States' ARRA Programs on a semi-annual basis. The purpose of this Program Evaluation Report (PER) is to present findings, conclusions, and recommendations based on the State's implementation of the CWSRF ARRA Program, and to document whether the State has complied with the Requirements of:

- Title VI, Section 606(e) of the Clean Water Act (CWA);
- 40 CFR 35.3165(c);
- The capitalization grant conditions;
- Operating Agreement conditions; and
- The additional provisions of ARRA including: the 20 percent Green Project Reserve, Davis-Bacon prevailing wage, Buy American, 50 percent Additional Subsidy, and reporting requirements.

II. Review Results and EPA Recommendations

This ARRA program review covered the activities performed in the period prior to the on-site and was conducted at the LDEQ office. The review was conducted on August 17-19, 2011, and covered the active grant #2W-966941-01. We reviewed the following project files: (1) Mansfield; (2) Merryville; (3) Vinton; and (4) Jonesboro.

A. Programmatic Review Results and Recommendations

One of the ARRA caveats was to provide funds to communities that could not otherwise afford them. LDEQ complied with the intent of ARRA by providing funding for 53 communities, many of which have been unable to obtain a traditional CWSRF loan. EPA commends LDEQ for following the ARRA spirit and intent. LDEQ has been successful in meeting the demands of the increased workload resulting from LDEQ's commitment to providing assistance to 53 communities across the state.

All federal funds awarded under the authority of the American Recovery and Reinvestment Act must be expended by September 30, 2013. On September 15, 2011, the Office of Management and Budget issued a Memorandum (M-11-34) to the heads of Federal departments and agencies urging them to spend remaining Recovery funds. Federal agencies were instructed to recapture discretionary grant funds not spent by September 30, 2013 to the greatest extent permitted by law. LDEQ will have the ability to request waivers from the September 30, 2013, deadline where acceleration would not

be in the best interest of the nation, where contractual commitments prevent adjusting the timeline for spending, where a project must undergo a complex environmental review that cannot be completed within this time frame, where programs are long-term by design and therefore acceleration could compromise core programmatic goals, or where other extenuating circumstances may apply. LDEQ must submit all proposed waivers to OMB for review and approval by September 30, 2012.

<http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-34.pdf>

Disadvantaged Business Enterprise (DBE)

The DBE requirements; i.e. six good faith efforts; subcontractor responsibilities; EPA grantee's responsibilities, etc. under 40 CFR Part 33 were revised in April 2009, and it applies to all EPA assistance agreements awarded after May 27, 2008. During the on-site review, we observed that these revised requirements were not being used.

EPA Recommendation: Ensure that the correct DBE requirements of 40 CFR Part 33 are used for future projects.

LDEQ Response: LDEQ has added the correct DEQ requirements as of December 2010.

EPA Response: Thank you.

B. Engineering Review Results and Recommendations

Davis-Bacon

The language from the term and condition on Davis-Bacon compliance was not included in the bidding documents for the reviewed projects as required by the program guidance, and as included in the capitalization grant terms and conditions. Alternately, language from 29 CFR 5.5 has been used. The loan agreements for future funding should include the appropriate term and condition as provided in the capitalization grant agreement, and the language should be incorporated into the bidding documents for each funded bid solicitation. All projects funded on or after October 30, 2009, are subject to Davis-Bacon provisions. This applies even if the funds are from FY2009, or earlier.

Also, incorrect Davis-Bacon Wage Determinations were included in the Mansfield, Merryville, and Jonesboro construction contracts. If more than 10 days pass from issuance of the most recent determination or modification to bid opening, the newer determination prevails, and if additional changes occur, the new rate applies unless a change order has been issued accepting the rate. This will require application of modified rates to the project, and if any rates are higher, the individuals affected must be paid the difference.

EPA Recommendation: Ensure that the loan agreements for future funding include the appropriate Davis-Bacon term and condition as provided in the capitalization grant agreement, and incorporate the language into the bidding documents for each funded bid solicitation.

LDEQ Response: All future projects will include the Davis-Bacon language specified in the associated grant agreement.

EPA Response: Thank you.

EPA Recommendation: Issue change orders for any incorrect Davis-Bacon Wage Determinations.

LDEQ Response: The correct wage determinations were included in the Merryville, Mansfield, and Jonesboro specifications prior to advertisement, see Exhibits.

EPA Response: Thank you for submitting the Exhibits re: the Merryville, Mansfield, and Jonesboro wage determinations. We have reviewed these, and agree that the correct wage determinations were used.

Buy American

The most recent inspection report for the City of Merryville (dated 1/18/2011) indicates an item was stamped with a foreign manufacture location.

EPA Recommendation: Follow-up on this issue, and inform EPA of the outcome.

LDEQ Response: As per an August 19th, 2011 correspondence and associated pictures by the Town, "The non-domestic fittings noted in both....site inspection reports have been removed and replaced with domestic fittings."

EPA Response: Thank you for submitting the pictures from the City of Merryville. We have reviewed these, and agree that these show that the correct domestic fittings were used.

C. Financial Review Results and Recommendations

Cash Draws

During the mid year ARRA financial review, EPA analyzed four (4) SFY2011 transactional tests from ARRA grant # 2W96694101:

- 1). 11/03/10 in the amount of \$345,914.38;
- 2). 07/23/10 in the amount of \$82,918.01;
- 3). 06/29/10 in the amount of \$233,083.03; and
- 4). 04/21/10 in the amount of \$163,495.54.

During the examination of the cash draws, several invoices included line items that were over budget. LDEQ indicated these differences are generally tracked during construction, and corrected by a change order upon project completion. Overall, the cash draws appeared to contain the proper documentation, invoices, and were reviewed and approved by LDEQ's engineer and financial staff prior to reimbursement. The sample reviewed

adhered to the rules of cash draw and were in-line with the ARRA grant federal regulations.

EPA Commendation: In general, LDEQ has done a good job reviewing recipient's documentation and invoices to ensure there is no fraud, waste, and/or abuse in the program.

EPA Recommendation: Please continue to oversee budget line items to ensure they contain proper change orders, and confirm projects are complete within the established budget.

LDEQ closed a commendable 53 ARRA loans which spurred an increased number of invoices for reimbursement. As part of the ARRA review, an assessment was made as to when invoices were received versus when they were compensated. For the most part, invoices were paid within 30 days of receipt, but due to an influx of invoices during the holidays, coupled with a slew of bad weather days, LDEQ experienced a delay on several reimbursements. LDEQ quickly recognized the issue and implemented a new internal process to ensure future payments will be processed in a timely manner, provided the necessary documents are received. The following changes were implemented:

- "Documents received in Financial Services Division (FSD) with proper documentation will be processed and forwarded to Business & Community Outreach Division (BCO) for approval within 7 days of receipt. If deficient documentation delays a request being forwarded to BCO, notes to the payment request will be annotated explaining the delay".
- "Payment requests that have been forwarded to BCO for approval will be reviewed/approved within 7 days, if no inspection is needed. If project inspection scheduling and/or deficient invoice documentation delays a request being approved by more than 10 days, notes to the payment request will be annotated explaining the delay".
- "Once BCO and FSD have approved the request, a check will be issued within 7 days allowing time for drawing federal funds, making the cash available from the Louisiana State Treasurer's office, obtaining the signature of the Accountant Administrator on the disbursement letter, and processing of the check".

EPA Commendation: LDEQ is commended for identifying some reimbursements were being delayed, and for implementing new procedures to ensure reimbursements are paid timely.

EPA Recommendation: Please ensure that all invoices are reimbursed within 30 days of receipt. Include an explanation or documentation in the file if the reimbursement is delayed for missing information or any other reasons or concerns.

Timely and Expeditious Use of Funds

LDEQ has done an exceptional job expending ARRA funds in a timely and expeditious manner which spurred efforts to provide much needed ARRA loans to Clean Water (CW) infrastructure assistance to communities in Louisiana. LDEQ provided ARRA loans to 53 recipients.

EPA Commendation: EPA applauds LDEQ's progress in the expeditious use of ARRA funds. At the time of this on-site review, LDEQ expended 95% of ARRA funds. EPA also commends LDEQ's effort on providing funds to numerous communities throughout the State of Louisiana.

Compliance with Single Audit Requirements

LDEQ continues to maintain a tracking spreadsheet for submission of Single Audit reports. At the time of the on-site review, the four ARRA Clean Water (CW) projects selected submitted their single audit with the exception of Merryville, who received an extension from the Louisiana Legislative Auditor. Prior to the on-site review several of LDEQ's recipient single audits were reviewed by the Inspector General (IG). Region 6 was tasked to follow up with these audits to ensure proper resolution. As part of their single audit review process, LDEQ reviews each and every single audit and addresses any issues that may create a concern with a project. LDEQ states that because each loan is 100% principle forgiveness and did not require a repayment, the findings reviewed did not have a negative adverse affect on the fund, so no follow up was necessary.

EPA Recommendation: Please continue to follow-up on each single audit and examine each finding to ensure the finding does not affect the SRF project.

Financial Management

The LDEQ CWSRF ARRA program appears to be financially well managed and structured to carry out any long-term impacts ARRA might have on the SRF program.

EPA Commendation: EPA commends LDEQ for the work the entire staff has put towards implementing a successful ARRA program which will help support the State of Louisiana's waste water infrastructure.

EPA Commendation: Overall, LDEQ has provided much needed and desirable funding to communities that would not have been able to qualify for a loan under the regular CWSRF program.

III. STATEMENT OF COMPLIANCE WITH SRF ARRA REVIEW GUIDANCE

We have conducted a mid-year ARRA review of the Louisiana Department of Environmental Quality's Clean Water State Revolving Fund Program for the program year 2011 in accordance with EPA's SRF ARRA Review Guidance.

FOLLOW-UP ACTION ITEMS

ACTION ITEMS	RESPONSIBILITY	DUE DATE
Ensure that the loan agreements for future funding includes the appropriate Davis-Bacon term and condition; this language should be incorporated into the bidding documents for each funded bid solicitation.	LDEQ	Ongoing
Ensure that the correct DBE requirements of 40 CFR Part 33 are used for future projects.	LDEQ	Ongoing
Ensure budget line items contain proper change orders.	LDEQ	Ongoing
Ensure that all invoices are reimbursed within 30 days of receipt.	LDEQ	Ongoing